

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1644

SPONSOR: Senator Argenziano

SUBJECT: Nitrate and Phosphorus Fertilizers

DATE: March 7, 2003

REVISED: 3/11/03

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/1 amendment</u>
2.	<u></u>	<u></u>	<u>NR</u>	<u></u>
3.	<u></u>	<u></u>	<u>FT</u>	<u></u>
4.	<u></u>	<u></u>	<u>AGG</u>	<u></u>
5.	<u></u>	<u></u>	<u>AED</u>	<u></u>
6.	<u></u>	<u></u>	<u>AP</u>	<u></u>

I. Summary:

This bill makes changes to s. 576.045, F.S., regarding nitrate contamination of groundwater. It adds phosphorus contamination to water quality issues previously addressed in that section. The bill also expands the law to include contaminated surface waters, along with the ground water and drinking water provisions included in current law. It requires persons licensed to distribute fertilizer to pay a fee of 50 cents per ton on fertilizer containing phosphorus and revises the purposes for which the Department of Agriculture and Consumer Services (department) may use the proceeds of fees levied against licensees. It also revises compliance requirements for property owners or leaseholders with respect to contamination of groundwater from fertilizers. The bill revises requirements for the department, in consultation with the Department of Environmental Protection, the Department of Health, and the water management districts to adopt rules for interim measures, best-management practices, conservation plans, nutrient management plans, and any other measures necessary for water quality improvement.

Except for subsections relating to the presumption of compliance and the clarification of the Florida Department of Environmental Protection's regulatory authority, the provisions of s. 576.045, F.S., are scheduled to expire on December 31, 2003, unless reenacted by the Legislature. This bill changes that date to December 31, 2012.

This bill amends section 576.045 of the Florida Statutes.

II. Present Situation:

Between 1985 and 1992, the Florida Department of Agriculture and Consumer Services (department) and the Florida Department of Environmental Protection (FDEP) jointly conducted surveys of drinking water wells in predominantly agricultural regions of Florida. Survey results

from limited sampling in 38 Florida counties showed elevated levels of nitrate in drinking water wells in 36 of the 38 counties tested. Of those 36 counties, 13 had at least one site with nitrate levels above the federal drinking water standard of 10 parts per million (ppm) set by the United States Environmental Protection Agency (USEPA).

Based on these findings, the department initiated development of a comprehensive program to protect Florida's water resources while maintaining the state's large agricultural industry. The department, in partnership with FDEP, the Florida Farm Bureau, the Florida Fruit and Vegetable Association, the Florida Fertilizer and Agrichemical Association, and other groups, developed a voluntary, incentive-based program to develop individual practices or combinations of practices to specify how nitrogen-based fertilizers are to be used. Two categories of practices were created:

- Interim Measures (IMs) – Based on currently available knowledge, IMs were intended to provide a reasonable expectation of reducing nitrate levels entering ground water.
- Best Management Practices (BMPs) – BMPs are determined by research or field testing at representative sites to be the most effective and practicable methods of fertilization that meets crop needs and nitrate groundwater quality standards.

To fund the development of research-based BMPs and IMs, the 1994 Legislature authorized the department to impose supplemental fees on users of all fertilizer materials containing nitrogen. The authorization was granted through adoption of s. 576.045, F.S.

The FDEP is required to establish procedures for well construction, testing, permitting, and clearance requirements in areas vulnerable to nitrate contamination and in areas where it has provided a restoration subsidy, extended existing water lines, or developed new water supply systems to remediate contaminated water supplies.

III. Effect of Proposed Changes:

Section 1. Amends s. 576.045, F.S., to expand program coverage by adding phosphorus contamination to the water quality issues addressed by this law. Adds “surface waters” to the types of waters where residues are found. Continues the 50 cents per ton fee for bulk fertilizer sold in Florida which contains nitrogen and also extends the fee to fertilizer containing phosphorus. Provides for use of collected funds. Applies the provisions relating to nitrate fertilizers to phosphorus-containing fertilizers.

Conforms BMP development and implementation processes to be consistent with the Total Maximum Daily Load process in s. 403.067, F.S., meaning that all benefits of the program will be available for interim measures as well as BMPs. Funds collected must be used consistent with the provisions of s. 403.067, F.S., for:

- research, development, demonstration, and implementation of suitable BMPs or other measures used to achieve water quality standards;
- reimbursing the Water Quality Assurance Trust Fund for specific costs incurred by FDEP; and
- sampling, analysis, and restoration of potable water supplies.

Provides that FDEP will use best professional judgment for the initial determination of BMP effectiveness; therefore, benefits of implementing BMPs can be realized before all verification is completed. Specifies that implementation of BMPs or other measures adopted by rule pursuant to s. 576.045, F.S., provides release from provisions of s. 376.307(5), F.S., regarding recovery from a person or persons responsible for a discharge. Clarifies rulemaking authority to state that the department, in consultation with FDEP, Florida Department of Health, the water management districts, and affected parties, shall adopt rules for interim measures, BMPs, conservation plans, nutrient management plans, or other necessary water quality improvement measures. Provides new expiration dates for specific subsections of the law.

Section 2. Provides that this act shall take effect July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Even with the addition of phosphorus to the fee coverage, the program is essentially revenue neutral because a relatively small amount of fertilizer containing only phosphorus is sold.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Agriculture:

Changes the effective date from July 1, 2003, to upon becoming a law.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
